

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF SOUTH CAROLINA  
BEAUFORT DIVISION

|   |   |                             |
|---|---|-----------------------------|
| Kenneth Green, #161009,                   | ) |                             |
|   | ) | C.A. No. 9:04-23173-HMH-GCK |
| Petitioner,                               | ) |                             |
|   | ) |                             |
| vs.                                       | ) | <b>OPINION AND ORDER</b>    |
|   | ) |                             |
| South Carolina Department of Corrections; | ) |                             |
| Warden, Kershaw Correctional Institution; | ) |                             |
| and Henry McMaster, Attorney General of   | ) |                             |
| the State of South Carolina,              | ) |                             |
|   | ) |                             |
| Respondents.                              | ) |                             |

This matter is before the court for review of the Report and Recommendation of United States Magistrate Judge George C. Kosko, made in accordance with 28 U.S.C. § 636(b)(1)(B) and Local Rule 73.02 for the District of South Carolina.

The Magistrate Judge makes only a recommendation to this court. The recommendation has no presumptive weight. The responsibility to make a final determination remains with this court. See Mathews v. Weber, 423 U.S. 261, 270 (1976). The court is charged with making a de novo determination of those portions of the Report and Recommendation to which specific objection is made, and the court may accept, reject, or modify, in whole or in part, the recommendation of the Magistrate Judge or recommit the matter with instructions. See 28 U.S.C. § 636(b)(1).

The petitioner filed no objections to the Report and Recommendation. In the absence of objections to the Report and Recommendation of the Magistrate Judge, this court is not

required to give any explanation for adopting the recommendation. See Camby v. Davis, 718 F.2d 198, 199 (4th Cir. 1983).

After a thorough review of the Report and Recommendation and the record in this case, the court adopts Magistrate Judge Kosko's Report and Recommendation and incorporates it herein. It is therefore

**ORDERED** that the petitioner's petition for a writ of habeas corpus is denied. It is further

**ORDERED** that the respondents' motion for summary judgment is granted.

**IT IS SO ORDERED.**

s/ Henry M. Herlong, Jr.  
United States District Judge

Greenville, South Carolina  
June 3, 2005

#### **NOTICE OF RIGHT TO APPEAL**

The petitioner is hereby notified that he has the right to appeal this order within thirty days from the date hereof, pursuant to Rules 3 and 4 of the Federal Rules of Appellate Procedure.